IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 28456 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE MD SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BHARATKUMAR MULJIBHAI DESAI POA OF MULJIBHAI VIRSANGBHAI DES

Versus

STATE OF GUJARAT & 2

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Appearance :
MR NP CHAUDHARY for the Petitioner

MR APURVA DAVE AGP for the Respondents

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CORAM : HONOURABLE MR.JUSTICE MD SHAH

Date : 27/12/2007

ORAL JUDGMENT

1. By way of this petition, the present petitioner has challenged the impugned order dated 11.10.2007 passed by respondent no.2 i.e. Chief Controlling Revenue Authority rejecting the application/appeal of the petitioner on the ground of limitation whereby the petitioner has challenged the order passed by the respondent no.3 i.e. Deputy Collector (Stamp), Palanpur in th month of April, 2004 imposing deficit stamp duty on the petitioner without assigning any reasons in detail.

2. It is submitted by the learned advocate for the petitioner that without giving any details regarding determination of stamp duty, in printed form, the order passed by the Deputy Collector (Stamp) Palanpur in a month of April, 2004 was in a casual manner. It is submitted by him that after taking into consideration certain principles regarding determining the stamp value used in agreement, he has passed the impugned order on the basis of which the respondent No.3 has ordered the petitioner to pay deficit Stamp Duty of Rs.73,500/- and Rs.11,025/- towards registration fees. A Notice was sent to to the petitioner on

31.12.1997 by the respondent no.3 i.e. Deputy Collector (Stamp) Palanpur asking the petitioner to pay an amount of Rs.73,500/- towards the deficit stamp value including the fees of registration amounting to Rs.11,025/- within stipulated time period, against which the petitioner has preferred an appeal before the Appellate Authority which was rejected by the Appellate Authority on the technical ground of limitation though the petitioner has preferred appeal within the time limit. Therefore, it is prayed that the order passed by the respondent appellate authority is required to be quashed and set aside.

3. In support of his submission, the Learned advocate for the petitioner has placed reliance on the following decisions of this court:

1. 2003 (1) GLR 454 vol.44 (Pradhyaumanbhai Mohanlal Patel v. State of Gujarat
2. 2006 (3) GLR 2252 (Mayurkumar J Patel v. Dy.Collector, Stamp Duty Valuation Department, Rajkot)

In the above decisions, it is held by this court that without giving any reasons and without applying mind towards any of the defences raised

by the petitioner therein, in printed format the impugned order has been passed wherein some gaps have been filled in and one and two sentences have been added. It is also held by this court that it is the duty vested in the respondent authorities to justify its say for higher market value for the land in question, and thus, the order in question was quashed and set aside by the court in the aforesaid decision.

4. The respondent Collector has passed final order in the month of April, 2004. The Appeal of the petitioner was rejected by the appellate authority vide impugned orders dated 11.10.2007.

5. The learned advocate for the petitioner has submitted that the delay if any occurred was on the part of the respondent authority as the authority was waiting for A.G. Report and therefore, there was delay in preferring the appeal before the appellate authority.

6. Considering the facts and circumstances of the case, it is apparent that the impugned order

passed by the Deputy Collector (Stamp) Palanpur is in printed form and only some gaps have been filled up by the authorities without giving any reasons. This clearly shows total non-application of mind on the part of the respondent-Authorities. Under these circumstances, the order passed by the Appellate Authority rejecting the appeal of the petitioner is hereby quashed and set aside. It also appears while perusing the order of the Deputy Collector (Stamp) Palanpur that at the time of passing the order, the Deputy Collector has only taken into consideration the A.G. Report and no reasons in detail have been assigned to the petitioner.

7. In the result, the petition is allowed. The impugned order passed by both the respondent authorities are quashed and set aside. Consequently, the matter is remanded to respondent No.3 for taking fresh decision and for passing a speaking order as per the Act, after giving an opportunity of being heard to the petitioner. Respondent No.3 is directed to dispose of the matter accordingly, within a period of three months from the date of receipt of the writ of

this order.

8. Rule is made absolute to the aforesaid extent. No order as to costs.

(***M.D.SHAH, J.)***

Amit/-